

**TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE**



**FISCAL NOTE**

**HB 2299 - SB 2409**

February 9, 2016

**SUMMARY OF BILL:** Creates a Class E felony for knowingly disclosing to another an image of a person (1) who is identifiable from the image itself or from information displayed in the image; (2) whose intimate parts are exposed or who is engaged in a sexual act; (3) when the person disclosing knows or reasonably should know that the depicted person has not consented to the disclosure; and (4) if the disclosure would offend or embarrass an ordinary person if the person knows of the disclosure.

Creates certain exceptions to the offense, e.g., if the image involves voluntary exposure in public or commercial settings, and defines various terms.

**ESTIMATED FISCAL IMPACT:**

**Increase State Expenditures – \$218,200/Incarceration\***

Assumptions:

- The bill creates a new Class E felony for knowingly disclosing a compromising picture of another person without that person's consent. The picture must show exposed intimate parts or a sexual act, and the depicted person must be identifiable from the picture.
- The bill would criminalize various disclosures of pictures. For example:
  - A person's significant other sends a compromising picture to the person, and the person shares the picture with his or her friends without the significant other's consent;
  - A notable person's phone is hacked from which compromising pictures are posted on the internet, and a person discloses those pictures to his or her friends.
- It is assumed that the bill will result in five admissions per year. The average time served for a Class E felony is 1.47 years, or 536.92 days.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will account for one (5 x .1178) additional admissions for a total of six (5 + 1).
- No recidivism discount applies because the bill is not enhancing a current offense, but rather creating a new offense.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based

on six offenders serving 1.47 years (536.92 days) for a total of \$36,365.59 (\$67.73 x 536.92 days). The incarceration cost for six offenders is \$218,193.55 (\$36,365.59 x 6).

- The bill only creates a few new cases each year. It is assumed that the courts, district attorneys, and public defenders can handle any impact within existing resources.
- The Administrative Office of the Courts confirms that it can handle any impact within its existing resources.

*\*Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in blue ink that reads "Krista M. Lee" followed by the letters "RNC" in a smaller, less distinct script.

Krista M. Lee, Executive Director

/trm